IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.S.RADHAKRISHNAN
&
THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

WEDNESDAY, THE 25TH JULY 2007 / 3RD SRAVANA 1929

OP.No. 16152 of 1994(W)

PETITIONER:

H.H.SRI.KESHAVANANDA BHARATHI
SWAMIYAR OF SRI EDANEER MATH, PADY VILLAGE,
P.O. EDANEER (VIA) KASARAGOD, KASARAGODE TALUK

BY ADV. SRI.K.SHRIHARI RAO
SMT.N.SHOBHA

RESPONDENTS:
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1. THE COMMISSIONER, HR & CE,
(ADMN), DEPARTMENT, KOZHIKODE-20

2. STATE OF KERALA, REP. BY THE CHIEF
SECRETARY, GOVT. SECRETARIAT, TVM

BY GOVERNMENT PLEADER K.SANDHESH RAJA

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 25/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1- TRUE COPY OF JUDGMENT IN C.P.2310/68 ON THE FILE OF THE HON'BLE HIGH COURT OF KERALA

EXT.P2- TRUE COPY OF THE ORDER NO.K.DIS.4185/88 OF THE 1ST RESPONDENT.

EXT.P3- TRUE COPY OF THE STATEMENT OF GROSS INCOME, CULTIVATION EXPENSES AND NET INCOME FOR FASLI YEARS 1392 TO 1400 AS PER AUDITED ACCOUNTS.

EXT.P4- TRUE COPY OF THE STATEMENT SHOWING THE ASSESSABLE INCOME

EXT.P5- -DO- -DO-

EXT.P6- -DO- -DO-

EXT.P7- -DO- -DO-

EXT.P8- -DO- -DO-

EXT.P9- -DO- -DO-

EXT.P10- -DO- -DO-

EXT.P11- -DO- -DO-

EXT.P12- -DO- -DO-

EXT.P13- TRUE COPY OF the AUDITED STATEMENT.

EXT.P14- -DO- -DO-

EXT.P15- -DO- -DO-

EXT.P16- -DO- -DO-

EXT.P17- -DO- -DO-

EXT.P18- TRUE COPY OF THE AUDITED STATEMENT.

EXT.P19- -DO- -DO-

EXT.P20- -DO- -DO-

EXT.P21- -DO- -DO-

EXT.P22- TRUE COPY OF THE RELAVANT PORTION OF the ASSESSMENT, LEVY AND RECOVERY OF CONRIBUTION, COSTS RULES, INTRODUCED AS PER G.O.4920/REVENUE OF the MADRAS GOVERNMENT.

EXT.P23- TRUE COPY OF THE STTEMENT SHOWING THE ASSETS AND LIABILITIES OF THE PETITIONER RELIGIOUS INSTITUTION AS ON 31.8.94.

(TRUE COPY)

P.A TO JUDGE

K.S.RADHAKRISHNAN & ANTONY DOMINIC, JJ

O.P.16152/1994

Dated this the 25th day of July, 2007

JUDGMENT

Radhakrishnan, J.

Writ Petition is preferred seeking a writ of mandamus directing the second respondent to amend the Rules framed under Section 100(2)(o)1(2)(c) of the Act by increasing the cultivation expenses to 50% of the gross income and declare that the rule as it now stands is arbitrary, unreasonable, null and void. Petitioner has also sought a writ of certiorari to quash Ext.P2 order as far as levy of contribution fee is concerned and re-fix the same deducting 50% as cultivation expenses from the gross income. A declaration is also sought for by the petitioner stating that he is not liable to pay contribution fee under Ext.P2 order for a period beyond three years immediately prior to the date of Ext.P2 order.

2. In the counter affidavit filed on behalf of the first respondent, it is submitted that the question of bringing in an appropriate legislation replacing the HR & CE Act, 1951 is pending before the Government. Counsel

appearing for the petitioner submitted that Rules be amended taking a clue from Ext.P22 even though it was issued in the year 1960. We find force in the contention of the petitioner.

3. In such circumstances, we are inclined to dispose of this petition with a direction to the Government to pass appropriate orders taking note of Ext.P22 within a period of three months from the date of receipt of a copy of this judgment.

K.S.RADHAKRISHNAN
Judge

ANTONY DOMINIC
Judge

mrcs